

**Air Pollution Control**  
**Title V Permit to Operate**  
**Statement of Basis for Draft Permit No. R10T5-ID-00-02**

April 17, 2001

**Empire Lumber Company dba Kamiah Mills (Empire)**  
**Nez Perce Reservation**  
**Kamiah, Idaho**

1. EPA Authority to Issue Part 71 Permits

On July 1, 1996 (61 FR 34202), EPA adopted regulations codified at 40 CFR part 71 setting forth the procedures and terms under which the Agency would administer a federal operating permits program. These regulations were updated on February 19, 1999 (64 FR 8247) to incorporate EPA's approach for issuing federal operating permits to covered stationary sources in Indian country.

As described in 40 CFR 71.4(a), EPA will implement a part 71 program in areas where a state, local, or Tribal agency has not developed an approved part 70 program. Unlike states, Indian Tribes are not required to develop operating permits programs, though EPA encourages Tribes to do so. See, e.g., Indian Tribes: Air Quality Planning and Management (63 FR 7253, February 12, 1998) (also known as the "Tribal Authority Rule"). Therefore, within Indian country, EPA will administer and enforce a part 71 federal operating permits program for stationary sources until Tribes receive approval to administer their own operating permits programs.

2. The Nez Perce Tribe

a. Indian Country: Empire is located within the exterior boundaries of the Nez Perce Reservation and is in Indian Country, as defined in 40 CFR part 71.

b. The Nez Perce Reservation: In 1855, Governor Stevens concluded a treaty with the Nez Perce recognizing tribal rights to an immense tract of country consisting of some 7.5 million acres. A new treaty in 1863 reduced the reservation to its current size of approximately 760,000 acres located in northern Idaho.

Today there are 15 communities located within the boundaries of the reservation. Based on 1986 data, the population is estimated at about 11,400 within the incorporated communities. Another 5,000 to 6,000 people live in the rural areas. Tribal enrollment is approximately 3,300 members with 1,000 members living off the reservation.

c. Tribal Government: The Nez Perce Tribe operates under a constitution that was

approved in 1958. The Tribe's constitution provides that a nine member Nez Perce Tribal Executive Committee is the governing body.

d. Local Air Quality and Attainment Status: Northern Idaho, including the Nez Perce Reservation, either attains the national ambient air quality standard for all criteria pollutants or is "unclassified". An area is unclassifiable when there is insufficient monitoring data. The only monitoring data for the Nez Perce Reservation is based on a particulate matter monitor which is operated in Kamiah. Data from this monitor indicates both daily and annual averages generally well below the standards for particulate. The Nez Perce Tribe is currently conducting their first air quality survey of the reservation using "MiniVol" samplers.

### 3. Facility Information

a. Location: Empire Lumber Co., doing business as Kamiah Mills, is located on Railroad Street in Kamiah, Idaho, and is within the exterior boundaries of the Nez Perce Reservation and is in Indian Country, as defined by 40 CFR part 71. The mailing address is:

Empire Lumber Company, dba Kamiah Mills  
P. O. Box 638  
Kamiah, ID 83536-0638

b. Facility Contact/ Responsible Official

The facility contact is Mike Steiger, Plant Superintendent  
The Responsible Official is David A. Klaue, President

c. General Description of Operations and Products

Empire is a privately owned company (i.e., not owned or operated by the Nez Perce Tribe). It is a planing mill. The primary product is kiln dried lumber. The primary byproduct is dried shavings. There are no debarking, wood preservatives, or gluing operations.

d. Emission Units and Emission Generating Activities

Empire provided in their application the information contained in Table 1. Table 1 lists emission units and emission generating activities, including any air pollution control devices.

Part 71 allows sources to separately list in the permit application units or activities that qualify as "insignificant" based on potential emissions below 2 tons/year

for all regulated pollutants that are not listed as hazardous air pollutants (“HAP”) under Section 112(b) and below 1000 lbs/year or the de minimus level established under Section 112(g), whichever is lower, for HAPs. However, the application may not omit information needed to determine the applicability of, or to impose, any applicable requirement, or to calculate the fee. Units that qualify as “insignificant” for the purposes of the part 71 application are in no way exempt from applicable requirements or any requirements of the part 71 permit.

Empire listed no emission units as specifically qualifying as “insignificant” for permit application purposes.

Table 1

## Emission Units and Control Devices

## Empire Lumber Company

Emissions Unit and Unit ID #	Description	Control Device
Wood Gasification Burner B-1	<ul style="list-style-type: none"> <li>this unit is similar to a fluidized bed combustor</li> <li>used to produce steam heat for the dry kilns</li> <li>20,700 lb/hr heat output</li> <li>29.9 MMBtu maximum heat input</li> <li>600 HP with 700 HP shell</li> <li>commenced operation 12/1999</li> <li>replacing two 100 HP hog fuel boilers</li> </ul>	Converta Kiln Multiclone  installed 11/1999
Wood Processing P-1 sorter/sticker	<ul style="list-style-type: none"> <li>modified in 1995</li> </ul>	none
Wood Processing P-2 dry kiln #1 P-3 dry kiln #2	<ul style="list-style-type: none"> <li>lumber drying using heat from the wood gasification burner</li> <li>both kilns were last modified in 1993</li> </ul>	none
Wood Processing P-4 dry kiln #3 P-5 dry kiln #4	<ul style="list-style-type: none"> <li>lumber drying using heat from the wood gasification burner</li> <li>both kilns were last modified in 1995</li> </ul>	none
Wood Processing P-6 hog	<ul style="list-style-type: none"> <li>located inside the planer/trimmer building</li> <li>modified in 1995</li> </ul>	none
Wood Processing P-7 rip saw	<ul style="list-style-type: none"> <li>modified in 1993</li> </ul>	none
Wood Processing P-8 cyclone #1	<ul style="list-style-type: none"> <li>process/control unit for planers/trimmers (P-14)</li> <li>last modified in 1988</li> </ul>	none
Wood Processing P-9 cyclone #2	<ul style="list-style-type: none"> <li>process/control unit for planers/trimmers (P-14)</li> <li>last modified in 1988</li> </ul>	none

Wood Processing P-10 cyclone #3	<ul style="list-style-type: none"> <li>• process/control unit for planers/trimmers (P-14)</li> <li>• last modified in 1988</li> </ul>	none
Wood Processing P-11 cyclone #4	<ul style="list-style-type: none"> <li>• process/control unit for planers/trimmers (P-14)</li> <li>• last modified in 1988</li> </ul>	none
Wood Processing P-12 cyclone #5	<ul style="list-style-type: none"> <li>• process/control unit for hog fuel (P-6)</li> <li>• last modified in 1988</li> </ul>	none
Wood Processing P-13 cyclone #6	<ul style="list-style-type: none"> <li>• process/control unit for the rip saw (P-7) and the planers/trimmers (P-14)</li> <li>• last modified in 1997</li> </ul>	none
Wood Processing planers/trimmers P-14	<ul style="list-style-type: none"> <li>• two planers and a trimmer - located inside a building</li> <li>• no installation/modification date provided</li> </ul>	none
Transfer Sources fuel bins to truck TR-1	<ul style="list-style-type: none"> <li>• installed in 1989</li> <li>• transfers mixed wood waste from fuel storage bins (ST-2) to trucks</li> <li>• markets waste to outside vendors</li> </ul>	none
Transfer Sources fuel house conveyor TR-2	<ul style="list-style-type: none"> <li>• transfers mixed wood waste from indoor fuel house (ST-3) to round fuel bin (ST-4) and to wood gasification burner (B-1)</li> <li>• installed in 1970</li> </ul>	none
Transfer Sources ash transport TR-3	<ul style="list-style-type: none"> <li>• transfers ash for wood gasification burner (B-1) to dumpster and off-site landfill</li> <li>• no date of installation/modification provided</li> </ul>	none
Transfer Sources conveyor to hog TR-4	<ul style="list-style-type: none"> <li>• transfers trim ends from trimmer (P-14) and wood waste from yard mill cleanup to the hog (P6)</li> <li>• No date of installation/modification provided</li> </ul>	none
Storage Sources ST-1 lumber storage	<ul style="list-style-type: none"> <li>• stores green lumber brought into the mill by truck</li> </ul>	none

Storage Sources ST-2 fuel house	<ul style="list-style-type: none"> <li>includes four wood waste fuel bins</li> <li>average throughput: 15,000 green tpy</li> <li>installed 1988</li> </ul>	none
Storage Sources ST-3 indoor fuel house	<ul style="list-style-type: none"> <li>stores wood waste fuel for the wood gasification burner (B-1)</li> <li>average throughput: 10,000 green tpy</li> <li>installed in 1959</li> </ul>	none
Storage Sources ST-4 round fuel bin	<ul style="list-style-type: none"> <li>average throughput: 20,000 green tpy</li> <li>installed 10/1998</li> </ul>	none
Solvent/Fuel Sources V-1 gasoline	<ul style="list-style-type: none"> <li>average annual throughput: 6,600 gallons/yr</li> <li>above ground storage tank</li> <li>tank capacity: 3,500 gallons</li> </ul>	none
Solvent/Fuel Sources V-2 diesel (2 tanks)	<ul style="list-style-type: none"> <li>average annual throughput: 18,000 gallons/yr</li> <li>above ground storage tanks</li> <li>tank capacity: 5,000 gallons each</li> </ul>	none
Solvent/Fuel Sources V-3 parts washer	<ul style="list-style-type: none"> <li>average annual throughput: 55 gallons/yr</li> <li>biodegradable</li> <li>tank capacity: 20 gallons</li> </ul>	none
Solvent/Fuel Sources V-4 propane	<ul style="list-style-type: none"> <li>average annual throughput: 2,800 gallons/yr</li> <li>above ground pressure tank</li> <li>tank capacity: 500 gallons</li> </ul>	none
Solvent/Fuel Sources V-5 lube/oil	<ul style="list-style-type: none"> <li>average annual throughput: 2,000 gallons/yr</li> <li>drums</li> </ul>	none

e. Permitting and/or Construction History

Empire indicated in their application that the Kamiah Mill facility commenced operation around 1965. Data in the files of the Idaho Department of Environmental Quality<sup>1</sup> (IDEQ) indicate that there was a facility in operation at this site since at least 1959. IDEQ's files show several compliance schedules developed in the early 1970's and indicate periodic problems with excess opacity (smoke) from the wood fired boilers previously in operation at this facility.

The IDEQ files include a recent permit to construct for Empire's newly installed wood gasification burner. This permit, issued on June 19, 1998, contains the following emission limits on the wood gasification burner (ID #B-1):

- NOx emissions limited to 99 tpy (greater than the unit's potential to emit)
- 20% opacity limit aggregated for 3 minutes
- Hog fuel throughput not to exceed 8241 tons/mo or 98,880 tons/yr
- Old hog fuel boilers are to be rendered inoperable prior to operation of the new unit

In addition, the permit contains requirements for operations and maintenance, monitoring, recordkeeping, and reporting. None of the IDEQ permit requirements are incorporated into this permit because they are not enforceable by EPA and are not "applicable requirements" as defined in 40 CFR part 71. See footnote 1 and section 5.g. for further discussion of this topic.

EPA has no other records of permitting or construction at this facility. No permit shield is implied or explicit for past new source review or for any applicable requirement not specifically identified in the permit.

f. Potential to Emit

Table 2 includes potential to emit data provided by Empire in their initial application and in subsequent material submitted during the public comment period on a previous draft of this permit. In some cases, EPA revised Empire's estimates, as discussed below. Potential to emit means the maximum capacity of Empire to emit any air pollutant under its physical and operational design. Any physical or operational limitation on the capacity of Empire to emit an air pollutant, including air pollution

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<sup>1</sup> Past approvals of State Implementation Plans (SIPs) do not extend to Indian Country unless the State has made an explicit demonstration of jurisdiction over Indian Country and EPA has explicitly approved the State's SIP for such an area. No such showing has been made by the State of Idaho. Therefore, any permits issued by IDEQ to the permittee are not recognized under the Clean Air Act.

control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, may be treated as part of its design if the limitation is enforceable by EPA. Potential to emit is meant to be a worst case emissions calculation and is used in to determine the applicability of many (but not all) federal requirements. Actual emissions may be much lower.

In the data submitted in their application, Empire calculated potential to emit for the wood gasification burner (ID #B-1) and the wood processing units (ID # P1 - P14) based on average actual production rates factored upwards by 20%. This is an incorrect method of calculating potential to emit. Potential to emit must be calculated using maximum potential production rates. EPA recalculated the potential to emit using the same emission factors (except as noted below) provided by Empire in the application multiplied by the maximum potential production rates, as provided by Empire. EPA did not attempt to verify potential or actual production rates but will do so in the future.

In a previous version of this permit that was submitted for public comment, EPA estimated particulate emissions from the wood gasification burner (ID #B-1) based on the emission limits in the New Source Performance Standard (NSPS) for small boilers (40 CFR Part 60, subpart Dc) During the public comment period, Empire provided information showing that the burner's maximum heat input capacity is 29.9 MMBtu which is less than the 30 MMBtu threshold above which the emission limits in the standard apply. Since this source is not subject to an enforceable limit on potential to emit (i.e., it is not subject to the particulate emission limit in the NSPS), nor is it subject to any requirement to use a control device to limit particulate emissions, EPA has recalculated the particulate emissions based on no emission limits and no control devices. Using the source test data and control device efficiency provided by the company and submitted by Empire, EPA used the highest emission factor for particulate - 0.150 lb/MMBtu and a control efficiency of 85% to calculate a potential to emit of 127 tons/year.

In calculating carbon monoxide (CO) from the burner (ID #B-1), EPA used a different emission factor than the one relied upon by Empire in their application. Empire included in their application information provided from the manufacturer of the wood gasification unit on emission rates for various pollutants, including CO, derived from source tests on similar emission units (but no source test was conducted at Empire). The source test was conducted at 18 MMBtu - less than this unit's full capacity of 29.9 MMBtu - and resulted in Empire calculating the potential to emit of CO at 18 tons/year. Scaling up to this source's maximum capacity, this emission factor would give an estimate of 31 tons/year of CO. However, also included in the materials from the manufacturer were source test results from a smaller unit which the manufacturer used to estimate emissions from a unit similar in size to Empire's. In that calculation, the manufacturer concluded that the source's emissions of CO would be 109 tons/year at a heat input of 24.8 MMBtu. Again, scaling up to 29.9 MMBtu, this would result in an estimate of 136 tons/year for the Empire unit.



EPA feels that there is insufficient information in the data provided by the manufacturer to determine the true potential to emit for CO for this unit. In the absence of complete data, EPA normally would default to an EPA published emission factor. In this case, though, EPA feels that such an emission factor, developed for hog-fuel boilers which burn bark and other wood debris, would significantly overestimate emissions from the wood gasification burner which combusts sawdust. Further, it is not necessary to better quantify CO emissions from this unit either to determine or to impose an applicable requirement. For these reasons, EPA feels that the higher estimate of 136 tons/year of CO is a reasonable estimate of CO to use as a place holder until such time as better data (e.g., a source test for this unit) is needed or is available.

During the public comment period for an earlier draft of this permit, Empire disagreed with EPA's estimate of CO emissions from the boiler and submitted additional source test data from the manufacturer on carbon monoxide (CO) from three similar units in other jurisdictions. This data estimated potential to emit between 52 and 81 tons/year for a 25 MMBtu burner. Again, scaling up to the maximum capacity of 29.9 MMBtu, this would yield CO estimates ranging from 62 to 97 tons/year. This additional data confirms the highly variable nature of CO emissions and the difficulty of estimating emissions without source specific testing. Therefore, EPA has retained the higher estimate of CO (136 tons/yr) as the most appropriate for this unit's *potential* to emit.

In Table 2, EPA also revised the emission estimates provided by Empire for the wood processing units (ID # P1 - P14). For the wood processing units, EPA was able to simply recalculate the potential to emit using the emission factors and maximum production rate data provided by Empire in their application.

Similarly, Empire appears to have calculated actual emissions (instead of potential to emit) for their storage units or, in one case, erroneously assumed 100% control (no control is the appropriate assumption since there is no federally enforceable control requirement). Insufficient information was provided for EPA to recalculate true potential to emit, so EPA has included Empire's numbers in Table 2 with a notation that these appear to be actual emissions rather than potential emissions. Since there are no requirements for these units even if the emissions were much higher, EPA does not feel that the absence of potential to emit data impacts our ability to issue this permit.

In their application, Empire did not speciate VOC emissions into the respective hazardous air pollutants (HAPs). Since most, if not all, HAPs from this facility will be accounted for in the VOC estimates, and since there is no NESHAP standard for this industry at this time for which HAP estimates might be needed for applicability purposes, EPA does not feel that the absence of this data impacts our ability to issue this permit.

Empire also indicated in their application and in subsequent telephone conversations that there are two old hog fuel boilers (100 horsepower each) at the facility

that were in operation until the new wood gasification burner commenced operation in early December 1999. Empire has stated that the boilers are now out of service and have been dismantled so potential emissions from these units have been deleted from the table.

EPA intends to work with Empire to refine their potential to emit estimates for all the emission units including the development of HAP emission estimates for the veneer dryers so that complete and accurate data is available for future reference. We emphasize that Empire must accurately calculate *potential* to emit rather than actual emissions in future applications. Empire must also submit annual estimates of *actual* emissions for all regulated pollutants as part of the requirement to pay an annual fee (see section VII of the permit).

Table 2  
Potential to Emit in Tons per Year  
Empire Lumber Company

Emissions Unit and Unit ID		NOx	VOC	SO2	PM10	CO	Lead ***	HAP ***
Wood Gasification Burner	B-1	21	3	6	127	136		
Wood Processing								
sorter/sticker	P-1				<1			
dry kiln #1	P-2		9		9			
dry kiln #2	P-3		9		9			
dry kiln #3	P-4		9		9			
dry kiln #4	P-5		9		9			
hog	P-6				<1			
rip saw	P-7				26			
cyclone #1	P-8				<1			
cyclone #2	P-9				<1			
cyclone #3	P-10				4			
cyclone #4	P-11				3			
cyclone #5	P-12				1			
cyclone #6	P-13				<1			
planers/trimmers	P-14				<1			
Transfer Sources **								
fuel bins to truck	TR-1				(fug)*			
fuel house conveyor	TR-2				<1			
ash transport	TR-3				(fug)*			
conveyor to hog	TR-4				<1			

Wood and Wood Waste Storage**							
lumber storage ST-1				(fug)*			
fuel house ST-2				4			
indoor fuel house ST-3				<1			
round fuel bin ST-4				6			
Fuel and Oil Storage Sources**							
gasoline V-1		<1					
diesel V-2		<1					
parts washer V-3		<1					
propane V-4		<1					
lube/oil V-5		<1					
TOTAL NON-FUGITIVE	21	39	6	207	136		

NOx - oxides of nitrogen      VOC - volatile organic compounds  
SO2 - sulfur dioxide          PM10 - particulate matter with a diameter 10 microns or less  
CO - carbon monoxide        HAP - hazardous air pollutants (see Clean Air Act Section 112(b))

\* The emissions from this unit are considered “fugitive”, as defined in 40 CFR part 71. Empire is not required to calculate potential emissions for this unit.

\*\*The calculations for these emission units provided by Empire appear to be based on actual emissions rather than on potential to emit. Insufficient information was submitted for EPA to recalculate the potential emissions. Since there is no standard for these units, EPA does not believe that the absence of this data impacts our ability to issue this permit.

\*\*\* No data was provided for these pollutants. Since there are no emission limits for these pollutants/units, at this time, EPA does not believe that the absence of this data impacts our ability to issue this permit. EPA intends to work with Empire to develop emission estimates for these pollutants so that complete and accurate data is available for future reference.

#### 4. Applicable Requirements

Based on the information provided by Empire in their application and supplemental data provided during the public comment period for a previous draft of this permit, Empire is subject to the following applicable requirements (see sections III, IV, and VI.D.d of the permit) for the following reasons:

- a. NSPS - 40 CFR part 60, subpart Dc - Standards of Performance for Small Steam Generating Units

Both prior to and after issuance of the initial draft permit in March 2000, EPA worked extensively with Empire and its consultant to obtain the maximum heat input

capacity from the wood gasification burner's manufacturer, as required in the notification provisions of 40 CFR 60.48c(a) and 60.7. This information is needed in order to definitively identify the maximum heat input capacity for New Source Performance Standard (NSPS) applicability purposes. We were unable to obtain that data prior to issuance of the draft permit and, in the absence of manufacturer's data, EPA estimated the heat input based on thermal efficiencies found in the industry as an average and also based on the average heat capacity for wood waste. During the public comment period for the initial draft permit, Empire's consultant submitted an analysis which contained thermal efficiency specific to that emission unit and relied on a worst case heat capacity for fuels combusted. EPA has concluded that the heat input capacity calculated by the consultant is more representative of this unit. This is an important analysis that will result in a significant change to the draft permit. Based on these calculations, this boiler is below the 30 million Btu threshold above which it would be subject to the particulate and opacity requirements of the NSPS for small boilers. For this reason, EPA is deleting the particulate and opacity requirements from the draft permit and re-issuing the permit for public comment.

Based on the new information provided by Empire, EPA has concluded that the new wood gasification burner (ID #B-1) began operation in December 1999, has a maximum design heat input capacity of 29.9 MMBtu/hr, burns wood, and is therefore not subject to any of the emission limits contained in subpart Dc. However, the burner is subject to several of the general requirements of subpart A, including various work practice requirements, and to the fuel recordkeeping requirement of 60.48c(g) and (i).

The application indicates that a multi-clone (a particulate control device) was installed by the manufacturer of the wood gasification burner. Empire must, therefore, comply with the work practice and reporting requirements contained in 40 CFR 60.11(d) and 60.7(b) (permit conditions III.A.(a)(i) and (b)(ii)) as they apply to control devices.

The NSPS requires that all records be retained for two years. This two year record retention period is superseded by the five year record retention requirement of this permit. See condition III.A.(b)(ii).

b. Compliance Assurance Monitoring Rule (CAM) - 40 CFR part 64

CAM applies to emission units subject to an emission limit and with a pre-control potential to emit greater than the major source threshold. However, only units with post control potential to emit greater than the major source thresholds must comply with CAM at initial permit issuance. All other units that meet the CAM applicability criteria must be in compliance at permit renewal and may also be required to submit a CAM plan if a significant change is made to the unit prior to renewal. Except possibly for carbon monoxide from the wood gasification boiler, none of the emission units at this facility has a post-control potential to emit greater than the major source threshold and is therefore not subject to CAM at this time. The wood gasification burner is not subject to CAM for

carbon monoxide because there is no emission limit for carbon monoxide for this unit.

c. Chemical Accident Prevention Program - 40 CFR part 68

The Chemical Accident Prevention Program requires sources who use or store regulated substances above a certain threshold to develop plans to prevent accidental releases. Based on Empire's application, Empire currently has no regulated substances above the threshold quantities in this rule and therefore is not subject to the requirement to develop and submit a risk management plan. This requirement is included in Empire's permit because Empire has an ongoing responsibility to submit a risk management plan IF a substance is listed that Empire has in quantities over the threshold amount or IF Empire ever increases the amount of any regulated substance above the threshold quantity. Including this term in the permit minimizes the need to reopen the permit if Empire becomes subject to the requirement to submit a risk management plan.

d. Stratospheric Ozone and Climate Protection - 40 CFR part 82

Based on Empire's application, Empire does not currently engage in the activities regulated under this provision. Including this term in the permit minimizes the need to reopen the permit if Empire does any maintenance, service, repair, or disposal, of any equipment containing chlorofluorocarbons (CFCs), or contracts with someone to do this work.

e. NESHAP - 40 CFR part 61, Subpart M - Demolition or Renovation Activity

Based on Empire's application, Empire is not currently engaged in the activities regulated under this provision. If Empire conducts any demolition or renovation activity, they must assure that the project is in compliance with the federal rules governing asbestos including the requirement to conduct an inspection for the presence of asbestos. Including this term in the permit minimizes the need to reopen the permit if Empire ever conducts any demolition or renovation activity.

g. Other Requirements

Based on the information provided in Empire's application, EPA has no evidence that this source is subject to any existing applicable federal CAA programs except those discussed above. Federal CAA programs include Prevention of Significant Deterioration (PSD), New Source Performance Standards (NSPS), National Emission Standards for Hazardous Air Pollutants (NESHAP), and the acid rain program under Title IV of the CAA. Further, Empire is not subject to any state implementation plan (SIP) requirements which are applicable within state jurisdictions. Therefore, except for the work practice requirements on the wood gasification burner and the generally applicable requirements of the chemical accident prevention program, the stratospheric ozone protection program, and the asbestos demolition and renovation requirements, Empire is not subject to any

other substantive requirements that control their emissions under the CAA.

EPA recognizes that, in some cases, sources of air pollution located in Indian Country are subject to fewer requirements than similar sources located on land under the jurisdiction of a state or local air pollution control agency. To address this regulatory gap, EPA is in the process of developing national regulatory programs for preconstruction review of major sources in nonattainment areas and of minor sources in both attainment and nonattainment areas. These programs will establish, where appropriate, control requirements for sources that would be incorporated into part 71 permits. To establish additional applicable, federally-enforceable emission limits, EPA Region 10, in consultation with Tribes and other stakeholders, is developing a Federal Implementation Plan (FIP) that will establish federal requirements for sources in Indian Country within Region 10. The Region hopes to propose this FIP within the year. EPA will establish priorities for its direct federal implementation activities by addressing as its highest priority the most serious threats to public health and the environment in Indian Country that are not otherwise being adequately addressed. Further, EPA encourages and will work closely with all tribes wishing to develop Tribal Implementation Plans (TIPs) for approval under the Tribal Authority Rule. EPA intends that its federal regulations created through a FIP will apply only in those situations in which a tribe does not have an approved TIP.

5. Use of All Credible Evidence

Determinations of deviations, continuous or intermittent compliance status, or violations of the permit are not limited to the testing or monitoring methods required by the underlying regulations or this permit; other credible evidence (including any evidence admissible under the Federal Rules of Evidence) must be considered by the source and EPA in such determinations.

6. Public participation

a. Public Notice.

As described in 40 CFR 71.11(a)(5), all part 71 draft operating permits shall be publicly noticed and made available for public comment. The Public Notice of permit actions and public comment period is described in 40 CFR 71(d).

There is a 30 day public comment period for actions pertaining to a draft permit. Public notice has been given for this draft permit by mailing a copy of the notice to the permit applicant, the affected state, Tribal and local air pollution control agencies, the Tribal, city and county executives, the state and federal land managers and the local emergency planning authorities which have jurisdiction over the area where the source is

located. A copy of the notice has also been provided to all persons who have submitted a written request to be included on the mailing list. If you would like to be added to our mailing list to be informed of future actions on these or other Clean Air Act permits issued in Indian Country, please send your name and address to Elizabeth Waddell at the address listed below:

Elizabeth Waddell  
U.S. Environmental Protection Agency, Region 10  
1200 6<sup>th</sup> Avenue (OAQ-107)  
Seattle, WA 98101

E-mail: [waddell.elizabeth@epa.gov](mailto:waddell.elizabeth@epa.gov)

Public notice has also been published in a daily or weekly newspaper of general circulation in the area affected by this source.

b. Opportunity for Comment

Members of the public may review a copy of the draft permit prepared by EPA, this statement of basis for the draft permit, the application, and all supporting materials submitted by the source at:

Nez Perce-Lewis County Library  
103 North Main  
Lapwai, Idaho 83540

U.S. EPA, Region 10 Library  
1200 Sixth Avenue  
Seattle, WA 98101

Copies of the draft permit and this statement of basis can also be obtained at no cost from EPA's website [<http://www.epa.gov/r10earth/> (once there, click on "Air")] or by contacting Elizabeth Waddell at the EPA address listed above or by calling toll free (800) 424-4372, extension 8578. All documents will be available for review at the EPA Region 10 Office indicated above during regular business hours.

If you have comments on the draft permits, you must submit them during the 30 day public comment period. All comments received during the public comment period and all comments made during a public hearing will be considered in arriving at a final decision on the permit. The final permit is a public record that can be obtained by request. A statement of reasons for changes made to the draft permits and responses to comments received will be sent to persons who commented on the draft permit.

If you believe that any condition of the draft permit is inappropriate, you must raise all reasonably ascertainable issues and submit all arguments supporting your position by the end of the comment period. Any supporting documents must be included in full and may not be incorporated by reference, unless they are already part of the administrative records for these permits or consist of tribal, state or federal statutes or

regulations, or other generally available referenced materials.

c. Opportunity to Request a Hearing

A person may submit a written request for a public hearing to Elizabeth Waddell, at the address listed in section 6.a above, by stating the nature of the issues to be raised at the public hearing. Based on the number of hearing requests received, EPA will hold a public hearing whenever it finds there is a significant degree of public interest in a draft operating permit. If a public hearing is held, EPA will provide public notice of the hearing, and any person may submit oral or written statements and data concerning the draft permit.

d. Mailing List

If you would like to be added to our mailing list to be informed of future actions on this or other Clean Air Act permits issued in Indian Country, please send your name and address to Elizabeth Waddell at the address listed above